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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/770,379	01/29/2001	Tatsuya Matsunaga	058856/0102	7096

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FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER

CHOOBIN, BARRY

ART UNIT	PAPER NUMBER
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2625

DATE MAILED: 10/06/2004

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/770,379

Applicant(s)

MATSUNAGA ET AL.

Examiner

Barry Choobin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 and 25-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 21 and 25-28 is/are rejected.
- 7) ☒ Claim(s) 3-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on May 25, 2004 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Response to Arguments

2. Applicant's arguments, see paper 6, filed May 25, 2004, with respect to the rejection(s) of claim(s) 1-2, 21 and 25-28 under USC 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Yoshii et al and Okabe et al (US 6,147,758).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 25 –27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshii et al (US 5,969,820) and in view of Okabe et al.

As to claim 1, Yoshii et al disclose a displacement sensor for automatically extracting a coordinate of a measuring point from an image obtained by using an imaging device according to a prescribed measuring point extraction algorithm (column 5, lines 35 – 39) and computing a desired displacement from the automatically extracted

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measuring point coordinate (Yoshii et al disclose that various coordinate information may be extracted from the signal, thus disclosing a coordinate determining means (see Fig.16A, 16B, 17, and column 10, lines 23-36).

However, Yoshii et al is silence about display data editing means.

But, Okabe et al disclose a Projection measuring instrument comprising; display data editing means (column 4, lines 4-13).

Okabe et al and Yoshii et al are combinable since they are in the same field of endeavor of range or distance measuring.

At the time the invention, it would have been obvious to a person of ordinary skill in the art to modify Yoshii et al with the display editing means of Okabe et al in order to provide a projection measuring instrument requiring no exchange work of overlay chart during comparative observation of the work piece image (column 2, lines 5-10).

The suggestion/motivation for doing so would have been to provide a projection-measuring instrument requiring no exchange work of overlay chart during comparative observation of the work piece image (column 2, lines 5-10).

Therefore, it would have been obvious to combine Okabe et al with Yoshii et al to obtain the invention as specified in claim 1.

As to claims 2 and 27, Yoshii et al disclose the imaging device consists of a two-dimensional imaging device (column 9, lines 28 – 37).

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As to claims 25 and 26, Yoshii et al disclose a displacement sensor system, comprising: at least one sensor head incorporated with a light source for generating a light section beam and an imaging device for imaging an object to be measured which is illuminated by the light section beam (column 2, lines 10 – 22); a main unit connected to the sensor head or the sensor heads with an electric cord (Fig.5), the main unit being adapted to automatically extract a coordinate of a measuring point from an image obtained by the sensor head by using a prescribed measuring point extraction algorithm (Yoshii et al disclose that various coordinate information may be extracted from the signal, thus disclosing a coordinate determining means. See Fig.16A, 16B, 17, and column 10, lines 23-36.), and to compute a displacement according to the automatically extracted coordinate of the measuring point (see claim 1); and a console unit formed integrally, with or separately from the main unit for supplying various commands to the main unit (although Yoshii et al is silence about a keyboard or a mouse. But a console unit for supplying various commands to the main unit is well known in the art (Official Notice);

the main unit further comprising display data editing means for editing at least part of data used from the time of obtaining the image until the time of computing the displacement for use as display data for an image monitor (see claim 1).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshii et al in view of Okabe et al as applied to claim 1 and further in view of Bonnefous (US Patent 6,159,151).

As to claim 21, Yoshii et al disclose a displacement sensor as recited in claim 1 (see claim 1), However, Yoshii et al is silence about the display data comprises a trend graph image showing a plurality of computed displacements in a time sequence.

But, Bonnefous discloses signal processing comprising a trend graph image showing a plurality of computed displacements in a time sequence (Fig.7, and column 9, lines 33-48).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide the work of Bonnefous with Yoshii et al and Okabe et al in order to qualitatively and quantitatively enhance evaluation of the distortion or non-distortion of the graphic lines simulating the displacements of points.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshii et al in view of Okabe et al as applied to claim 25 and further in view of Dong (5,923,427).

As to claim 28, Yoshii et al disclose a displacement sensor for automatically extracting a coordinate of a measuring point from an image obtained by using an imaging device according to a prescribed measuring point extraction algorithm, and computing a desired displacement from the automatically extracted measuring point coordinate (see claim 1).

However, Yoshii et al is silence about means for defining a measuring point extraction range in association with the image obtained by the imaging device.

But, Dong discloses a distance sensing system-comprising position sensing detector in conjunction with a range finding element (column 5, lines 58-65). Yoshii et al and Dong are analogous art, since they are from a similar problem solving area, in that each involves position measurement. See *Medtronic, Inc. v. Cardiac pacemakers*, 721, f.2d 1563,1572-1573, 220 USPQ 97, 103-104 (Fed. Cir. 1983). The motivation for combination reference would have been to incorporate the range finding element and position sensing of Dong with the position sensing device as disclosed in Yoshii et al. Means for automatically extracting a measuring point coordinate from a part of the image within the measuring point extraction range according to a prescribed measuring point extraction algorithm (Yoshii et al disclose that various coordinate information may be extracted from the signal, thus disclosing a coordinate determining means. See Fig.16A, 16B, 17, and column 10, lines 23-36.)

Allowable Subject Matter

9. Claims 3 – 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. This Office Action is Non-Final.

CONTACT INFORMATION

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barry Choobin whose telephone number is 703-306-5787. The examiner can normally be reached on M-F 7:30 AM to 18:30 .

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on 703-308-5246. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Barry Choobin
October 4, 2004

